

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS

GEOFF JOHNSON,

Plaintiff,

- against -

RAINBOW INTERNATIONAL LLC

Defendant.

Docket No. 6:20-cv-82

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Geoff Johnson (“Johnson” or “Plaintiff”) by and through his undersigned counsel, as and for his Complaint against Defendant Rainbow International LLC (“Rainbow International” or “Defendant”) hereby alleges as follows:

NATURE OF THE ACTION

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant’s unauthorized reproduction and public display of a copyrighted photograph of a hoarder home, owned and registered by Johnson, a professional photographer. Accordingly, Johnson seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

JURISDICTION AND VENUE

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over Defendant because Defendant resides and/or transacts business in Texas.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

PARTIES

5. Johnson is a professional photographer in the business of licensing his photographs for a fee having a usual place of business at 1111 N. 13rd Street, Suite 420, Omaha, Nebraska 68102.

6. Upon information and belief, Rainbow International is a domestic limited liability company duly organized and existing under the laws of the state of Texas with a place of business at 1010 N. University Parks Drive, Waco, Texas 76707. Upon information and belief, Rainbow International is registered with the Texas State Department of Corporations to do business in Texas. At all times material, hereto, Rainbow International has owned and operated a website at the URL: www.RainbowIntl.com (the “Website”).

STATEMENT OF FACTS

A. Background and Plaintiff’s Ownership of the Photograph

7. Johnson photographed a hoarder (the “Photograph”). A true and correct copy of the Photograph are attached hereto as Exhibit A.

8. Johnson is the author of the Photograph and has at all times been the sole owner of all right, title and interest in and to the Photograph, including the copyright thereto.

9. The Photograph was registered with the United States Copyright Office and was given registration number VA 2-127-583.

B. Defendant’s Infringing Activities

10. Rainbow International ran an article on the Website entitled *What Hoarding Means for Your Home*. See: <https://rainbowintl.com/blog/what-hoarding-means-for-your-home>. A true and correct copy of the article and a screenshot of the Photograph on the Website are attached hereto in Exhibit B.

11. Rainbow International did not license the Photograph from Plaintiff for its article, nor did Rainbow International have Plaintiff's permission or consent to publish the Photograph on the Website.

CLAIM FOR RELIEF
(COPYRIGHT INFRINGEMENT AGAINST DEFENDANT)
(17 U.S.C. §§ 106, 501)

12. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-11 above.

13. Rainbow International infringed Plaintiff's copyright in the Photograph by reproducing and publicly displaying the Photograph on the Website. Rainbow International is not, and has never been, licensed or otherwise authorized to reproduce, publically display, distribute and/or use the Photograph.

14. The acts of Defendant complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

15. Upon information and belief, the foregoing acts of infringement by Defendant have been willful, intentional, and purposeful, in disregard of and indifference to Plaintiff's rights.

16. As a direct and proximate cause of the infringement by the Defendant of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to damages and Defendant's profits pursuant to 17 U.S.C. § 504(b) for the infringement.

17. Alternatively, Plaintiff is entitled to statutory damages up to \$150,000 per work infringed for Defendant's willful infringement of the Photograph, pursuant to 17 U.S.C. § 504(c).

18. Plaintiff further is entitled to his attorney's fees and full costs pursuant to 17 U.S.C. § 505.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant Rainbow International be adjudged to have infringed upon Plaintiff's copyrights in the Photograph in violation of 17 U.S.C §§ 106 and 501;
2. That Plaintiff be awarded either: a) Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photograph; or b) alternatively, statutory damages of up to \$150,000 per copyrighted work infringed pursuant to 17 U.S.C. § 504;
3. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
4. That Plaintiff be awarded his costs, expenses and attorneys' fees pursuant to 17 U.S.C. § 505;
5. That Plaintiff be awarded pre-judgment interest; and
6. Such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: Valley Stream, New York
February 2, 2020

LIEBOWITZ LAW FIRM, PLLC

By: /s/Richard Liebowitz
Richard P. Liebowitz
11 Sunrise Plaza, Suite 305

Valley Stream, New York 11580
Tele: 516-233-1660
RL@LiebowitzLawFirm.com

Attorneys for Plaintiff Geoff Johnson